

PIKE COUNTY PROJECT DEVELOPMENT BOARD

REGULAR MEETING MINUTES

**Pike County Courthouse
Pikeville, Kentucky**

July 1, 2010, at 5:00 p.m.

CHAIR: Judge/Executive Wayne T. Rutherford

MEMBERS OF THE BOARD PRESENT:

**Magistrate Jeff Anderson
Director/AOC Representative/City
Manager Donovan Blackburn
Circuit Judge Eddy Coleman
Circuit Court Clerk David Deskins
Citizen at Large Hon. Charles E. Lowe, Jr.
District Judge Darrell Mullins
State Bar Association Representative Neal Smith
Jim King, AOC Project Manager**

OTHERS PRESENT:

**Bobby Branham, Executive Assistant to Judge/Executive
Charles Carlton, Energy and Community Development
R. Roland Case, Assistant Pike County Attorney
Sidney Cline, Karate Business
Rusty Davis, Pikeville City Attorney
Rose Farley, Recorder
Michael George, Ross, Sinclair & Associates
Jeff Gregory, Sherman, Carter & Barnhart
Rhonda James, Finance Commissioner PCFC
Jeanne Robinson, Executive Assistant to Judge/Executive
Steve Sherman, Sherman, Carter and Barnhart
David Sumner, Codell Construction
Robert Walters, Cardinal Glass**

Judge/Executive Wayne T. Rutherford, Chair of the Pike County Project Development Board, called to order a regular meeting of the Board on July 1, 2010, at 5:00 p.m., in the Pike County Fiscal Courtroom, Pike County Courthouse, 146 Main Street, Pikeville, Kentucky.

The first to come for Public Comment was Sydney Cline, owner of the karate business in one of the buildings along Division Street. He reported severe damage to a wall in his building caused by the demolition next door for the new Judicial Center and a "drastic increase" in his utility bill. He stated he had informed the owners of the building, Nancy and Sam Ritchie, about this and added that he had a severe mold problem.

Steve Sherman, architect, of Sherman, Carter and Barnhart, instantly responded he understood Mr. Cline's problem and the matter would be taken care of immediately. He declared they would begin work on correcting the wall but it might be a "temporary

fix" of plywood rather than permanent. He answered Mr. Cline's next question that when the plywood was in place, the mold should go away. He said Summit Engineering, Inc., would help with this, adding that they were surprised when the wall came down. Donovan Blackburn asked if Mr. Cline was leasing the building and he answered, "Short term." Mr. Sherman said work to correct this problem would begin tomorrow.

Robert Walters of Cardinal Glass & Door, Inc., came next to discuss the bid award for the aluminum storefront and glass for the Judicial Center. He referred to a letter he had written on June 16 to the Board stating his company was the second lowest bid for the package and he felt the low bidder, Central Kentucky Glass, did not follow the bid specifications to the degree necessary for successful completion. Mr. Walters emphasized his complaint was not merely because his company came in second.

Judge Rutherford confirmed that it seemed agreed that the documents were prepared correctly and Cardinal Glass had responded correctly. A lengthy discussion followed with pertinent points being made by Mr. Walters that it may or may not have been determined by the low bidder that the products were tested or might be later tested; whether the windows could meet the cut out masonry openings; the specification concerning the anti-ballistic curtain wall; and if the materials could timely meet the specifications.

Jeff Gregory, architect, had submitted an e-mail concerning this matter, and Judge Rutherford read this aloud in part in the meeting. Mr. Gregory in open meeting stated he felt this bid should be thrown out and in the e-mail stated, "...to do otherwise introduces risk of having windows show up on site that do not properly fit actual masonry openings and may produce schedule impacts to the project as a whole. We see any such risk to be solely that of the glazing contractor, not the owner." He then stated this response did not fully answer the question. He said they would design around EFCO and after examination, both Cardinal Glass and Kawneer would be acceptable to them and the products are now being tested. Mr. Sherman stated the materials and products have to be tested at the end of the day; they cannot be tested this early. Mr. Gregory stressed that they do not specify in the documents that the products must be tested.

Neal Smith asked if the products have not been tested and failed, would the architects return to Cardinal Glass, which he deemed unfair. Judge Rutherford asked if this were typical when bids went out. Jim King stated these specifications and plans were as much "performance" as anything else. He said the items have to pass their reviews when they make their submittals, noting all the components of the building will be submitted to the architect for review and either approval, denial or request for information. He said if a contractor cannot or will not supply something that meets the specifications and intent, another contractor may be contracted to do that. But, he explained, the original contractor will be backcharged for the cost of performing that necessary step. He said this is not uncommon, and probably on this project, there will be contractors who will be backcharged because they cannot or will not accomplish a certain task. He said that task is in a "critical path" meaning it has to be done to move to the next step. He said usually the construction manager will give the contractor a chance or second chance but if not, it will keep on going.

Mr. Gregory said that no one knows if any supplier will meet all the tests until later. Mr. Sherman used concrete as an example and stated until it is poured, the material's performance has not been met. He assured the Board this is normal procedure. Judge Rutherford asked if they had the same supplier for the windows and was told no,

that Cardinal Glass, EFCO and Central Kentucky Glass were suppliers. Mr. Gregory stated that the windows are being purchased from EFCO with prefabricated material and Central Kentucky Glass is simply stocking the pieces and fabricating the windows in its own house.

Judge Rutherford pointed out that if the holes are cut for the windows and the windows are ordered early, then they may not fit the holes. Mr. Gregory confirmed that. Judge Rutherford then responded, "So, it's not clear, the way you have it written." Mr. Walters said his company is making the windows in part, only the grid (dividing pieces on the window) on the outside of the windows; that it comes assembled. Mr. Sherman noted that if they are going to be fabricating the windows based on the openings, then Item Three on the e-mail goes away. Mr. Walters said Central Kentucky Glass is not making those and that could cause a major holdup. He emphasized he did not feel the schedule could be met.

Mr. Gregory stated that if the masonry openings are not as they should be, it is up to the window manufacturer to determine a solution. Mr. Smith asked if the price differential was based on whether one product was tested and one was not and Mr. Gregory answered no. Mr. Sherman listed that they had one low bidder and three close together. Mr. Smith responded that the Board could then surmise that the three together thought it had to be a pre-tested product. Mr. Walters strongly disagreed with that stating it was the first time in his twenty-five years that he had ever heard of somebody trying to qualify a product post-bid.

The choice of rebidding arose. Judge Rutherford stated that excluding any problem with the bid, if the Board were to re-bid, the weather itself would soon become a factor with the windows since it would be months before the windows would be decided since the building would have to be built first. He then asked if the Board did decide to re-bid, could it be restricted to the only contractors who had bid and Assistant Pike County Attorney R. Roland Case answered no. He said the County could always reject all bids, assuming it is under the Department for Local Government Procurement Code but if all bids are rejected and the project is re-bid, it opens it up to everyone. He said the lowest evaluated bid could be taken or all bids could be rejected. He said if all bids were rejected and the project re-bid, the County could not tell somebody else what to bid. Mr. Sherman said under the Model Procurement Code, it is actually negotiation.

Mr. King reported he had seen the test results on these window frames and he is actually the author for the specifications. He said the ones he received had been the anti-ballistic material with the applications being used. Mr. Gregory stressed that while both suppliers listed glass, the framing itself is the issue. Mr. Sherman said they basically had no difficulty with them on the job as far as measurements or terms of the schedule. He said changes would be made if called for. Mr. Walters thanked the Board for listening.

Consideration of bids began. Mr. Sumner and Mr. Sherman set forth the alternates and reasons for such. Judge Coleman asked if these presented were the low bids and was told yes. Mr. Blackburn asked why there was no price on the bonding for some of the contractors and was answered by Mr. Sumner that some of the contractors are affected by the alternates and Mr. Sherman added performance to that. The experience of the construction manager and architect entered into the decisions since there had been problems on other projects with some of the materials. The bids awarded on the list submitted by Mr. Sumner for Codell are attached to the end of the text of these

minutes with changes highlighted, made a part hereof as if fully written herein and entitled, "Attachment A." The bid awards are as follows:

# 3	General Trades	Rising Sun Developing, Inc.
# 4	Masonry	T & C Construction
# 5	Structural Steel	Stone City Ironworks, Inc.
# 6	Lite GA Metal Framing & Drywall	Grayhawk, LLC
# 7	Roofing	American Roofing
# 8	Detention Equipment	GS Company
# 9	Aluminum Windows & Storefront Doors	Central Kentucky Glass Company
#10	Ceramic Tile	Carpet Decorators, Inc.
#11	VCT & Carpet	Carpet Decorators, Inc.
#12	Resinous Terrazzo Floor	Rosa Mosiac & Tire Company
#13	Painting	BL Radden & Sons, Inc.
#14	Hydraulic Elevator	Thyssenkreupp Elevator
#15	HVAC & Plumbing	Elliott Electric
#16	Fire Protection	Landmark Sprinkler, Inc.
#17	Electrical	Elliott Electric

Mr. King stated he would recommend that the Board consider selecting B.L. Radden & Sons, Inc., since he felt that company was the best value and they are most timely. Judge Rutherford stated if anyone had experience with some of these contractors, then the Board should be told, bad or good. Attorney Case warned the Board that the reason for rejecting the lowest bid must be stated for the record and if it is not the best value, that should be told.

Individual bid awards were announced. **Upon motion by Judge/Executive Wayne T. Rutherford and second by David Deskins, the Board AUTHORIZED awarding Bid Package #13 to B. L. Radden & Sons, Inc., since it is the best value selection for the new Judicial Center Project and requests consideration by B.L. Radden of a better price for this project with this bid award being contingent upon receiving that better price. Vote was cast as follows:**

Judge Rutherford	Yes
Magistrate Anderson	No
Judge Coleman	Yes
Judge Mullins	Yes
Mr. Deskins	Yes
Mr. Smith	Yes
Mr. Blackburn	Yes
Judge Lowe	Yes

The walnut wood was defined as being better than the oak and can be stained to suit. **Upon motion by David Deskins and second by Judge Eddy Coleman, the Board unanimously AUTHORIZED awarding the bid for the wood in the new Judicial Center to Rising Sun Developing, Inc., with the choice of wood being walnut instead of oak.**

Upon motion by Judge Eddy Coleman and second by Neal Smith, the Board unanimously **AUTHORIZED** awarding the entire Bid Package #3 to Rising Sun Developing, Inc., including the walnut and including Alternates #7, #8, #9 and #10.

Upon motion by Neal Smith and second by Judge Darrell Mullins, the Board unanimously **AUTHORIZED** awarding Bid Packages #4, #5, #6, and #7 with corresponding alternates as set forth on the bid sheet submitted by Codell Construction at this meeting. Those awarded the bids are listed below:

#4	Masonry	T & C Construction
#5	Structural Steel	Stone City Ironworks, Inc.
#6	Lite GA Metal Framing & Drywall	Grayhawk, LLC
#7	Roofing	American Roofing

Upon motion by Neal Smith and second by Donovan Blackburn, the Board unanimously **AUTHORIZED** awarding Bid Packages #8, #10, #11, #12, #14, #15, and #16. The contractors are listed below:

# 8	Detention Equipment	GS Company
#10	Ceramic Tile	Carpet Decorators, Inc.
#11	VCT & Carpet	Carpet Decorators, Inc.
#12	Resinous Terrazzo Floor	Rosa Mosiac & Tile Company
#14	Hydraulic Elevator	Thyssenkreupp Elevator
#15	HVAC & Plumbing	Elliott Electric
#16	Fire Protection	Landmark Sprinkler, Inc.

Mr. Sumner explained that Bid #17 was the lowest bid, showing a \$24,000 savings over the life of the \$2 million project. Judge Rutherford inquired about the bond and was told that it only affected Bid #15, not this one. He asked why this local contractor was chosen and was told by Mr. Sherman that there is better coordination between these two and Mr. King said this is the best value. **Upon motion by David Deskins and second by Judge Darrell Mullins, the Board unanimously AUTHORIZED awarding Bid #17 to Elliott Electric, being the best value and showing a savings of \$24,000 over the life of the project.**

Attorney Case reported that on Bid #9, he had consulted with Rusty Davis, Attorney for the City of Pikeville, and he, too, agreed that all bids should be rejected and a re-bid should be held. Mr. King commented that the glass submittal meets the specifications. He said the assembly itself has to meet the specs which include the frame which cannot be done until post-bid time and he said the assembly was basically always submitted as a shop submittal for approval. He said his experience has been that those things have always been submitted as a shop submittal. All frame sizes are different for every building in the state, he stated, and these sizes did meet the specs.

Mr. Sherman said he had spoken with Central Kentucky Glass and they offered to provide the materials but have Cardinal Glass install the windows locally. He suggested postponing this decision until the next meeting. Attorney Case interjected that to do this,

all bids would have to be rejected; that no bid here exceeds available funds. Mr. King said this would end up being a sub-contractor and any contractor can pick any sub-contractor. Mr. Sherman asked for a week to see if resolution could be reached and then re-bid if not. Magistrate Jeff Anderson supported this suggestion. **Upon motion by Donovan Blackburn and second by Neal Smith, the Board unanimously AUTHORIZED awarding Bid Package #9 to Central Kentucky Glass Company but also AUTHORIZED time to permit the Architect and Construction Manager to seek resolution between Cardinal Glass Company and Central Kentucky Glass Company prior to the expiration of the bid, after which all bids could be rejected, if necessary.**

Mr. Sherman explained that Qore's original estimate for the inspection of ground improvements had been approved at \$30,000 but this must now be changed to \$36,000. **Upon motion by Judge Eddy Coleman and second by Neal Smith, the Board unanimously AUTHORIZED payment of the sum of \$36,000 to Qore for inspection of ground improvements for the new Judicial Center.**

Judge Rutherford asked if Mr. Sherman had had an opportunity to recommend work for the backs of the buildings left standing and he answered not at this time. Mr. King responded that minimal remediation costs could be over half a million. He advised purchasing and razing the older buildings rather than spending that much money on them. Michael George of Ross, Sinclair & Associates, stated at \$20.3 million for this project, there is about \$4 million for this. Attorney Case reminded the Board that the Fiscal Court had not authorized condemnation of these buildings. Mr. Blackburn reported that some of the property owners are willing to sell.

Judge Coleman asked how much it would cost to purchase and how much to fix. Judge Rutherford asked about appraisals and Mr. King urged going ahead with that. Mr. King said a fair estimate could be obtained and he supported proceeding with negotiation with the property owners now because he has "grave concerns" about these buildings surviving. David Deskins asked if this meant taking all of the buildings on Division Street and Judge Rutherford answered no, only the two buildings that are in danger. Mr. Blackburn suggested purchasing Chrisman Insurance and Joyce's Place right away, depending upon available funding. Mr. Blackburn asked if he called Allen Hensley, appraiser, would there be a price limit and Mr. King added the appraisal needs to be done on the entire strip of buildings.

Upon motion by Donovan Blackburn and second by Neal Smith, the Board unanimously AUTHORIZED approach to the property owners on Division Street to see if they are interested in selling their properties and the preliminary price estimate they would ask for purposes of sale. FURTHER, the Board unanimously AUTHORIZED contact with an MAI appraiser for appraisals on these properties.

Other business arose. **Upon motion by Judge Eddy Coleman and second by Neal Smith, the Board unanimously AUTHORIZED a sum of no more than \$20,000 for immediate remedial work for Sydney Cline, owner of the karate business on Division Street, to repair damage done to the wall.**

Upon motion by Judge Eddy Coleman and second by Judge Darrell Mullins, the Board unanimously AUTHORIZED the sum of \$41,300 for lead certification candles.

Upon motion by Neal Smith and second by Donovan Blackburn, the Board unanimously **AUTHORIZED** Judge/Executive Wayne T. Rutherford to sign a proposal for KBC Chapter 17 Quality Control Testing and Special Inspections Observation and Testing Services from S&ME, Inc. **FURTHER**, the Board unanimously **AUTHORIZED** payment of the fee required by the state not to exceed the sum of \$130,000 for inspection of soil testing, foundation/footing testing, and steel, among others items.

The Board stated if it is determined that working conditions within the older buildings have become too unsafe to install the sub-surface system, that temporary spaces will be provided for the workers within twenty-five feet.

Upon motion by Judge Eddy Coleman and second by Judge Darrell Mullins, the Board unanimously **AUTHORIZED** payment of the sum of \$5,000 - \$10,000 to fix the preconstruction needs.

Mr. George stated the project is well under budget at this time. He said approval is needed for long-term financing with the market interest rate as it is now and stated approval would be sought from the Fiscal Court at the next meeting. This approval will permit the sale of bonds for July 15. He said there should be a 10% cushion at \$28,500 as long as it is within the \$2.5 million. Judge Rutherford asked him to meet with Jeanne Robinson, Executive Assistant to Judge Rutherford, to set up the Public Properties meeting with the Fiscal Court. Mr. George asked for local attorneys to do the bond work and Mr. Smith suggested Max Thompson, a local attorney, who does title work and would already have materials needed. **Upon motion by Neal Smith and second by Magistrate Jeff Anderson, the Board unanimously AUTHORIZED Michael George of Ross, Sinclair & Associates, to proceed to secure long-term financing, beginning with the Pike County Fiscal Court's approval, and to hire Max Thompson to do the title work necessary for this. Vote was as follows:**

Judge Rutherford	Yes
Magistrate Jeff Anderson	Yes
Judge Coleman	Yes
Judge Mullins	Yes
Mr. Deskins	Yes
Mr. Smith	Abstain
Mr. Blackburn	Yes
Judge Lowe	Yes

With no further business before the Board, the meeting was ADJOURNED.

Respectfully submitted,

Rose Farley, Recorder